

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JERRY L. HANSEN, and STEVEN
M. JACOB,

Plaintiffs,

v.

NEBRASKA BOARD OF PAROLE,
ESTHER CASMER, Chairperson,
SAM SHAW, NSP Librarian,
DENNIS BAKEWELL, NSP
Warden, FRANK HOPKINS, NDCS
Deputy Director, and ROBERT
HOUSTON, NDCS Director,

Respondents.

4:07CV3086

MEMORANDUM AND ORDER

This matter is before the court on Plaintiffs' motion for temporary restraining order and preliminary injunction (filing no. 2) and Plaintiffs' motion to extend deadline to amend petition. (Filing No. 13.)

In Plaintiffs' motion to amend deadline to amend petition, Plaintiffs state that they are actively seeking and may have retained counsel in this matter. (Filing No. 13.) Plaintiffs seek 30 days in which to amend their petition. *Id.* As set forth by Federal Rule of Civil Procedure 15(a), "[a] party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served." Fed. R. Civ. Pro. 15(a).

The court has not yet conducted an initial review of the complaint in this matter, no summons has yet been served and the time for serving a responsive pleading has not yet passed. Plaintiffs' motion to extend deadline to amend petition is therefore granted.

In Plaintiffs' motion for temporary restraining order and preliminary injunction (filing no. 2), Plaintiffs summarily address the standards set forth by *Dataphase Sys., Inc. v. C.L. Sys., Inc.*, 640 F.2d 109 (8th Cir. 1981). As set forth above, Plaintiffs have sought, and the court has granted, additional time in which to amend the complaint. Such amendment may affect the claims made in Plaintiffs' motion for temporary restraining order and preliminary injunction. Therefore, Plaintiffs' motion for temporary restraining order and preliminary injunction is denied without prejudice to reassertion after the amendment of the complaint and notice to Defendants.

IT IS THEREFORE ORDERED THAT:

1. Plaintiffs' motion to extend deadline to amend petition (filing no. 13) is granted. Plaintiffs shall have until **October 5, 2007** in which to amend their complaint in this matter. In the absence of Plaintiffs' filing an amended complaint, this matter will proceed on the claims set forth in filing no. 1.

2. The Clerk of the court is directed to set a pro se case management deadline with the following text: October 5, 2007: deadline for Plaintiffs to file amended complaint.

3. Plaintiffs' motion for temporary restraining order and preliminary injunction (filing no. 2) is denied without prejudice pending the amendment of the complaint.

September 5, 2007

BY THE COURT:

s/ Joseph F. Bataillon
Chief United States District Judge